

REMARKS

Reconsideration of the above-referenced application is respectfully requested in view of the above amendments and these remarks. Claims 1-33 are currently pending.

In the Office Action, claims 1-6, 8-14, 16-27, and 29-33 were rejected under 35 U.S.C. § 102(e) as being anticipated by United States Patent No. 6,560,453 to Henry, Jr. et al. Claims 7, 15 and 28 were also rejected under 35 U.S.C. § 103(a) as being unpatentable over Henry in view of United States Patent No. 6,577,608 to Moon et al. In the Response filed November 5, 2004, Applicant filed a declaration under 37 C.F.R. § 1.131 to swear behind Henry. It was stated that Applicant's declaration was not sufficient to swear behind Henry because it did not indicate that Applicant was diligent in pursuing his invention between Henry's effective date and the filing date of this application. To overcome this objection, Applicant files a Supplemental Declaration that states he was diligent in pursuing this application during this time frame. In response, Applicants submit a declaration of prior invention in the United States under 37 C.F.R. § 1.131 to overcome the rejection. The declarations now state that the completion of the invention in the application is prior to the effective date, i.e. the filing date of Henry, and that between the filing date of Henry and the filing date of this application, Applicants have exercised due diligence in pursuing their invention. Applicants therefore submit that the rejection of claims 1-6, 8-14, 16-27 and 29-33 is moot in view of the declaration. Applicants respectfully request that the rejection under Section 102(e) be withdrawn.

Claims 7, 15 and 28 were also rejected under 35 U.S.C. § 103(a) as being unpatentable over Henry in view of United States Patent No. 6,577,608 to Moon et al. As stated above, Applicants submit the declaration of prior invention in the United States to overcome Henry thereby removing it as a prior art reference. Applicant's declaration establishes that he completed the entire invention as seen in the claims of the present application prior to the effective date of Henry. Without Henry as prior art, the rejection under Section 103(a) does not stand. Applicants respectfully submit that the rejection of claims 7, 15 and 28 is moot in view of the declaration. Therefore, Applicants respectfully request that the rejection under Section 103(a) be withdrawn.

As the Applicant has overcome all substantive rejections and objections given by the Examiner and have complied with all requests properly presented by the Examiner,

Serial No. 10/024,890  
Kinnavy  
Case No. CE08262R

the Applicant contends that this Response overcomes the Examiner's objections to and rejections of the pending claims. Therefore, the Applicant respectfully solicits allowance of the application. If the Examiner is of the opinion that any issues regarding the status of the claims remain after this response, the Examiner is invited to contact the undersigned representative to expedite resolution of the matter.

Please charge any fees associated herewith, including extension of time fees, to 50-2117.

Respectfully submitted,  
Kinnavy, Michael J.

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